IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

THE HON'BLE MR JUSTICE D.S.R.VARMA

AND

THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 19405 of 1999

Between:

N.Naveen Kumar S/o.Late N.Tulasi Rami Reddy
R/o. D.no.13-1-191 Peddakapu Street , Tirupathi
Chittoor Dist ., A.P.

..... PETITIONER

AND

1 The Managing director
APSRTC , RTC X Roads Hyderabad.
2 The Personnel Officer
Office of the Regional Manager Tirupathi, Chittoor Dist., A.P
3 The Depot Manager
Tirupathi Depot No.2 Tirupathi , Chittoor Dist., A.P.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more in the nature of Mandamus, declaring the Proc.No.EL/684(3)/98-RM(T), Dt: 3-6-99 of the 3rd respondent as illegal and void and consequentially to direct the respondents to appoint the petitioner as Conductor grade-II on Companionate ground.

For the Petitioner: MR.K.BATHI REDDY , Advocate

For the Respondents: Mrs. Jyothi Kiran, SC for APSRTC

The Court made the following :

HON'BLE MR. JUSTICE BILAL NAZKI

HON'BLE MR. JUSTICE D.S.R.VARMA

AND

HON'BLE MR. JUSTICE S. ANANDA REDDY

W.P.NO. 19405 OF 1999

ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Heard learned counsel for the parties. This writ petition was filed challenging the action of the respondents in rejecting the request of the petitioner for appointment on compassionate ground. The appointment has been refused to the petitioner on the ground that two of his brothers were already employed in the State Road Transport Corporation. A learned single Judge of this Court was of the view that if the family did not suffer any financial burden because of death of an earning member, then the member of that family may not be entitled to compassionate appointment and referred the matter to a Division Bench. The Division Bench found that there was an earlier judgment of a Division Bench of this Court in Review W.P.M.P.No. 11884 of 1998 and WP No. 14553 of 1995. In that case there was a scheme which reserve 10% of vacant posts for the children of employees dying in harness or retiring from service on their completing 55 years, or 25 years of service. The Division Bench held that there was no bar for employing a second child of a deceased employee or of an employee who had retired from service on attaining the age of 55 years or who had put in 25 years of service under 10% quota reserved for them. Since the Division Bench was

not able to persuade itself to agree with the law laid down by another Division Bench in W.P.M.P.No. 11884 of 1998 and WP No. 14553 of 1995, it referred the matter to Full Bench. Therefore the matter was heard by us. Today we have been told that the judgment of the Division Bench in W.P.M.P.No. 11884 of 1998 and WP No. 14553 of 1995 has already been set aside by the Supreme Court which was reported in *Divisional Manager, A.P.S.R.T.C. Vs. K. Radha Krishna* . Since the judgment of the Division Bench has already been set aside by the Supreme Court, we do not find that the petitioner has any claim for compassionate appointment under the scheme, particularly when two of his brothers were already in service of the Corporation. The Supreme Court held,

> "The purpose of the circular/settlement earlier was to give economic help/relief to the employee dying in harness or retiring but the purpose is not to employ more than one child of such employee. It is submitted that in some circular it is specifically provided not to employ more than one (sic) its mere absence in the settlement on which reliance has been placed would make no difference. The settlement reveals that 10% vacancies on the post of conductor are reserved in the Corporation for the children of the employees dying in harness or retiring from service on their completing 55 years, or 25 years of service etc. subject to the condition mentioned therein. However, mere absence of specific mention that only one child is to be absorbed makes no difference."

Besides, the only ground on which the petitioner wanted us to allow the writ petition was that his brothers are living separately and he is living separately. If such an argument is accepted, then there can be no meaning to compassionate appointment. If a person dies in harness, many members of his family will seek appointment on compassionate ground on the ground that other member is not looking after him. The Supreme Court in a number of judgments held that the appointment on compassionate ground is only to provide succour to the family in distress who lost an earning member suddenly.

For the reasons given hereinabove, we do not find any merit in the writ petition which is accordingly dismissed. No costs.

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BN J.

_____

DSRV J.

_____

SAR J.

Dt. 18 .8.2004

KR

Sd/-

Asst. Registrar

//True Copy//

Section Officer

To

1 The Managing director
APSRTC , RTC X Roads Hyderabad.
2 The Personnel Officer
Office of the Regional Manager Tirupathi, Chittoor Dist., A.P
3 The Depot Manager
Tirupathi Depot No.2 Tirupathi , Chittoor Dist., A.P.

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